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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,041	12/20/2001	James J. Conroy	CONROY	1821
25889	7590	11/12/2003	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,041

Applicant(s)

CONROY, JAMES J.

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 18 September 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The corrected drawings were received on 9/18/03. These drawings are acceptable since they corrected the previously cited deficiencies.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 15, 17, 18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilson 3,661,326.

Wilson discloses a base (13) with a plurality of protrusions (11, 12) and at least one elongated channel (in 11) with a surface formed from the base and extending along the base between the protrusions for receiving and presenting insecticide (24 in 23 received in 15).

In regard to claim 18, Wilson discloses presenting a base (13) with a plurality of protrusions (11, 12) and a plurality of elongated indentations (defined by 15 & 23)

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extending between at least two (laterally opposed, upwardly extending parts of 11) of the plurality of protrusions; and placing the insecticide (24) in at least one of the indentations (23) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (located on top, exterior surface of 13).

4. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alvarez 3,704,539.

Alvarez discloses base (10, 20 or 110, 120) with a plurality of protrusions (P', 110', outer edges of 110 & 120) and at least one elongated channel (between 110 & 120) with a surface formed from the base and extending along the base between the protrusions for receiving and presenting insecticide (P).

In regard to claim 18, Alvarez discloses presenting a base (10, 20 or 110, 120) with a plurality of protrusions (P', 110', outer edges of 110 & 120) and a plurality of elongated indentations (openings between 10, 20 or 110, 120 on left and right sides in Figs. 1 & 3; also indentations defined between P') extending between at least two (110' & one of P') of the plurality of protrusions; and placing the insecticide (P) in at least one of the indentations (see Figs. 1 & 3) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (interior surface is defined within 22 or 116, 122).

5. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pence 5,390,441.

Pence discloses base (see Fig. 2) with a plurality of protrusions (14", 15, 16", corners) and at least one elongated channel (19, 19') with a surface formed from the

base and extending along the base between the protrusions for receiving and presenting insecticide (20, 20').

In regard to claim 18, Pence discloses presenting a base (see Fig. 2) with a plurality of protrusions (14", 15, 16", corners) and a plurality of elongated indentations (19, 19') extending between at least two (14", 16") of the plurality of protrusions; and placing the insecticide (20, 20') in at least one of the indentations (see Fig. 2) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (insecticide is exposed on an exterior surface of the base [at 19] where the snail can access the insecticide; see Fig. 4).

6. Claims 15, 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bernard 6,202,341.

Bernard discloses presenting a base (1) with a plurality of protrusions (2, 3, 7 and corners of 1) and at least one elongated channel (within 1, see Fig. 1B) with a surface formed from the base and extending along the base between the protrusions for receiving and presenting insecticide (8; including gel see col. 4, lines 44-47 & col. 5, lines 14-16).

7. Claims 15, 17, 18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilson 3,661,326.

Wilson discloses a base (13) with a plurality of protrusions (11, 12) and at least one elongated channel (in 11) with a surface formed from the base and extending along the base between the protrusions for receiving and presenting insecticide (24 in 23 received in 15).

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In regard to claim 18, Wilson discloses presenting a base (13) with a plurality of protrusions (11, 12) and a plurality of elongated indentations (defined by 15 & 23) extending between at least two (laterally opposed, upwardly extending parts of 11) of the plurality of protrusions; and placing the insecticide (24) in at least one of the indentations (23) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (located on top, exterior surface of 13).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson 3,661,326 in view of Spragins 6,618,983 or Ferland 6,014,834.

Wilson discloses an insecticide which is applied along an exterior surface of the channel (11), but does not disclose the insecticide in the form a gel substance that is injected along an exterior surface of the channel. Spragins discloses a nozzle may be inserted through holes formed by knockouts (126) to squeeze bait such as gel into receptacles 42, 44, and 46 without removing the cover. Ferland discloses that a gel may be injected into the insect trap (10) and that gel overcomes the problems associated with liquid baits such as rapid evaporation and leakage so as to avoid unwanted mess and human or animal contact with toxins. It would have been obvious

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to a person of ordinary skill in the art to modify the method of Wilson such that a gel insecticide is injected into the channel in view of Spragins or Ferland in order to provide an insecticide which will not quickly evaporate and will limit the possibility of leakage so as to prevent undesired contact with humans or animals.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alvarez 3,704,539 in view of Spragins 6,618,983 or Ferland 6,014,834.

Alternatively Alvarez does not disclose injecting the gel into the channel.

Spragins discloses a nozzle may be inserted through holes formed by knockouts (126) to squeeze bait such as gel into receptacles 42, 44, and 46 without removing the cover. Ferland discloses that a gel may be injected into the insect trap (10) and that gel overcomes the problems associated with liquid baits such as rapid evaporation and leakage so as to avoid unwanted mess and human or animal contact with toxins. It would have been obvious to a person of ordinary skill in the art to modify the method of Alvarez such that a gel insecticide is injected into the channel in view of Spragins or Ferland in order to provide the user with a simple method with which to insert the insecticide into a restricted area without too much handling of the gel being required on the part of the user.

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pence 5,390,441 in view of Spragins 6,618,983 or Ferland 6,014,834.

Alternatively Pence does not disclose injecting the gel into the channel. Spragins discloses a nozzle may be inserted through holes formed by knockouts (126) to squeeze bait such as gel into receptacles 42, 44, and 46 without removing the cover.

Ferland discloses that a gel may be injected into the insect trap (10) and that gel overcomes the problems associated with liquid baits such as rapid evaporation and leakage so as to avoid unwanted mess and human or animal contact with toxins. It would have been obvious to a person of ordinary skill in the art to modify the method of Pence such that a gel insecticide is injected into the channel in view of Spragins or Ferland in order to provide the user with a simple method with which to insert the insecticide into a restricted area without too much handling of the gel being required on the part of the user.

Response to Arguments

12. Applicant's arguments with respect to claims 1, 2, 7, and 9-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

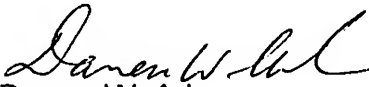
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Darren W. Ark
Primary Examiner
Art Unit 3643

DWA